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14 UNITED STATES DISTRICT COURT  
15 DISTRICT OF NEVADA, LAS VEGAS DIVISION  
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17 BRENT GEPHART, an individual,  
18 Plaintiff,  
19 vs.  
20 DOUG MERRYMAN, an individual, and as  
21 the managing member of OPMNY, LLC  
22 Defendant.

Case No. 2:18-cv-01670-GMN-CWH

**[PROPOSED] ORDER FOR  
PRELIMINARY INJUNCTION**

Action Filed: September 1, 2018

1           **TO ALL PARTIES AND THEIR ATTORNEYS OF RECORD:**

2           **PLEASE TAKE NOTICE** that the Court, after full consideration of the moving papers of  
3 Plaintiff's Emergency Motion For Temporary Restraining Order or Preliminary Injunction (Dkt.  
4 No. 12) (the "Motion") filed by Plaintiff BRENT GEPHART ("Plaintiff"), the Opposition to  
5 Plaintiff's Emergency Motion for Temporary Restraining Order or Preliminary Injunction (Dkt.  
6 No. 14) filed by Defendant DOUG MERRYMAN ("Defendant"), the supplemental briefs filed by  
7 the parties on October 30, 2018, and the oral argument of counsel at the hearing held in Courtroom  
8 7D located at the Las Vegas Courthouse, 333 Las Vegas Blvd South, Las Vegas, NV 89101, at  
9 9:30 a.m. on November 2, 2018, and good cause appearing therefor, the Court rules as follows:

10           1.       Plaintiff has presented testimony and evidence sufficient to establish the basis for  
11 the issuance of a Preliminary Injunction pending the trial of this matter as requested in Plaintiff's  
12 Motion;

13           2.       Until the trial on this matter is concluded or further order of the Court, a  
14 Preliminary Injunction is hereby issued restraining and enjoining Defendant, in any capacity he  
15 has with respect to OPMNY, LLC ("OPMNY") from taking any of the following actions, or  
16 causing any of the following actions to be taken, either directly or indirectly through agents:

17                   a.       Transferring, licensing, encumbering, exchanging, expending, pledging,  
18 loaning, or otherwise disposing of, directly or indirectly, any of OPMNY's ownership  
19 interests in and any rights to any intellectual property including, without limitation, any  
20 source code developed for the purpose of a payment gateway;

21                   b.       Altering or deleting, including allowing the automatic alteration or deletion  
22 of, destroying, or in any way disposing of or removing any OPMNY related documents,  
23 books, or records, including electronic mail and other electronic data;

24                   c.       Creating duplicate "OPMNY" companies; and

25                   d.       Entering into any legally binding commitment with respect to, or agreeing  
26 to do, any of the foregoing;

27           3.       Until the trial on this matter is concluded or further order of the Court, a

28 Preliminary Injunction is further hereby issued restraining and enjoining Defendant, his agents,

servants and employees, and all persons acting under, in concert with, or for him from, directly or indirectly impairing, blocking, or restricting Plaintiff's read only access to the following email accounts, bank accounts, gateway access and QuickBooks records:

- a. Ploutos dba My Card Storage Wells Fargo Bank Acct. ending in 9045;
- b. Ploutos dba Prismpay Wells Fargo Bank Acct. ending in 7583;
- c. Reporting.prismpay.com (the gateway admin. access);
- d. QuickBooks – Ploutos Holdings;
- e. QuickBooks – OPMNY;
- f. QuickBooks – Instant Accept;
- g. OPMNY Wells Fargo Checking Acct ending in 3094;
- h. OPMNY DBA Prismpay Wells Fargo Checking Acct ending in 1794;
- i. OPMNY DBA Charge Back Alerts Wells Fargo Checking Acct ending in 0372;
- j. OPMNY DBA NG POS Wells Fargo Checking Acct ending in 0380;
- k. OPMNY DBA Instant Accept Wells Fargo Checking Acct ending in 0398;
- l. OPMNY DBA Merchant First Wells Fargo Checking Acct ending in 0406;
- m. OPMNY DBA API PYMT Wells Fargo Checking Acct ending in 0414;
- n. OPMNY DBA API PYMT Wells Fargo Checking Acct ending in 0414;
- o. OPMNY DBA Merchant Loyalty Wells Fargo Checking Acct ending in 4975;
- p. OPMNY Wells Fargo Savings Acct. ending in 7459;
- q. OPMNY DBA Instant Accept Wells Fargo Savings Acct. ending in 7459;
- r. OPMNY Bank of America Checking Acct. ending in 3118; and
- s. OPMNY E\*TRADE Checking Acct. ending in 9808.

4. Until the trial on this matter is concluded or further order of the Court, a Preliminary Injunction is further hereby issued restraining and enjoining Defendant, his agents, servants, and employees, and all persons acting under, in concert with, or for him from, directly or indirectly sending any emails purporting to be from Plaintiff;

1           5.       The Court, having considered Defendant's request for a bond as security against  
2 potential harm to Defendant arising from the Preliminary Injunction ordered herein, finds that  
3 Defendant has not established a realistic likelihood of harm or injury to himself or OPMNY from  
4 enjoined the conduct described above such that no bond will be required at this time.

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6           **IT IS SO ORDERED.**

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8           DATED: November 6, 2018

  
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Judge of the District Court

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**CERTIFICATE OF SERVICE**

I hereby certify that on this 2<sup>nd</sup> day of November 2018, a true and correct copy of **[PROPOSED] ORDER FOR PRELIMINARY INJUNCTION** was served via the United States District Court CM/ECF system on all parties or persons requiring notice.

By /s/ Todd W. Prall  
Todd W. Prall  
HUTCHISON & STEFFEN, PLLC